

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Civil Writ Petition No.730 of 2002.

Date of decision:09.04.2007

State of H.P.

....Petitioner

Versus

Pawan Kumar

.....Respondents.

Coram

The Hon'ble Mr.Justice Dev Darshan Sud, J.

The Hon'ble Mr.Justice Rajiv Sharma, J.

Whether approved for reporting?¹ No.

**For the Petitioner: Mr. M.S. Chandel, Advocate General
with Mr. J.K. Verma, Dy. Advocate
General.**

**For the Respondent: Mr. Lokender Pal Thakur, Advocate
for the respondent.**

Dev Darshan Sud,J. (Oral) .

The State has challenged the judgment dated 17.10.2001 of the learned State Administrative Tribunal passed in O.A. No.817 of 1999.

The basic point for consideration raised before this Court is as to whether the termination of the services of the respondent was in accordance with law. The petitioner before the Administrative Tribunal had challenged his termination on the ground that it violates the mandatory provisions of the Industrial Disputes Act, 1947. On the question of fact, the learned Tribunal has held that the petitioner before it had put in more than 240

¹ *Whether reports of Local Papers may be allowed to see the judgment? Yes.*

days in a calendar year and that the act of terminating of his services was *ultra-vires* of Section-25F of the Industrial Disputes Act, 1947.

We have heard learned counsel for the parties and gone through the record. We do not find any perversity in the factual appraisal of the material on record by the learned Administrative Tribunal. In these circumstances, we do not think that this is a fit case where this Court should interfere.

An apprehension has been expressed by the learned Advocate General appearing for the petitioner that this judgment may be construed as conferring the status of a permanent workman on the respondent. We make it clear that the terms and condition of the service of respondent would be determined by the statute/contract of employment and we have not made any observations in the writ petition touching the nature and status of his employment. The writ petition is accordingly dismissed. There shall be no order as to costs.

(Dev Darshan Sud)
Judge

April 9, 2007.
(ss)

(Rajiv Sharma)
Judge.